

1 Yitong Wen
1042a Washington Street
2 San Francisco, CA, 94108
Email: yitongtsowen@gmail.com
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CLERK
U.S. BANKRUPTCY
EASTERN DISTRICT OF
NEW YORK

2024 JUL 10 A 10: 51

RECEIVED/MR

6 **U.S. Bankruptcy Court**
7 **Eastern District of New York (Brooklyn)**
8 **Bankruptcy Petition #: 8:23-bk-72433**

9 YITONG WEN/FITSKM LLC

10 Plaintiff,

11 vs.

12 SPROUT MORTGAGE LLC, et al

13 Defendants,
14
15
16
17

**ADVERSARIAL CLAIM AGAINST SPROUT
FOR MONETARY DAMAGES**

Honorable Judge Robert E Grossman

Action Filed: 06/28/2024

18
19 Plaintiff, Yitong Wen/Fitskm, files this adversarial motion against Sprout for monetary damages of twelve
20 million six hundred thousand dollars (\$12,600,000.00). Plaintiff paid Sprout \$1.58 million dollars in May 2022
21 through Old Republic Title Company ("ORTC") to pay off Sprout first deed of trust for that amount on 810
22 43rd Ave, San Francisco CA ("43rd Ave"). Sprout sent to OTRC through escrow a demand for pay offs and
23 Reconveyance of the first deed of trust on 43rd Ave. Sprout gave ORTC a demand for the amount of \$1.58
24 million dollars to reconvey the first deed of trust on 43rd Ave on the refinance that Plaintiff had obtained to
25 pay off Sprout first deed of trust on 43rd Ave. ORTC wired to Sprout the \$1.58 million dollars through its
26 escrow and the escrow closed.
27
28

1 Shockingly, over a year later in 2023 when Plaintiff was refinancing the loan that paid off Sprout loan, the title
2 company ORTC discovered that Sprout had not reconvey their deed of trust a year earlier despite being paid
3 \$1.58 Million dollars through escrow from ORTC. the new loan that paid off Sprout and was due and payable
4 pay off in full maturity in late 2023. Plaintiff tried in vain with numerous calls and notices to Sprout to
5 immediately reconvey their deed of trust whereas they were paid off in full through escrow a year earlier in
6 2022. Moreover, ORTC tried to have Sprout to file the reconveyance on 43rd Ave as they paid Sprout the
7 \$1.58 Million dollars a year earlier.

8
9 Sprout ignored all demands to reconvey their first deed of trust on 43rd Ave despite being paid off to full a
10 year earlier the \$1.58 Million dollars through ORTC escrow. As a result, Plaintiff lost 43rd Ave to Foreclosure
11 trust deed sale because Sprout intentionally, illegally, deleteriously engaged in criminal fraud and theft against
12 Plaintiff in the amount of \$1.58 Million dollars causing plaintiff to not be able to refinance the loan that was
13 due prior to the trustee sale because Sprout never reconveyed their loan off of 43rd Ave.

14
15 43rd Ave is and was appraised at that time at \$3.4 Million dollars and \$4 Million dollars by mortgage banker
16 Association appraisers. Using the \$3.4 Million dollars appraisal, Plaintiff lost actual damages of \$2.1 Million
17 dollars, or more. Plaintiff requests 5 times of the damages, under California law Plaintiff can receive 10 times
18 of the actual damages for intentional bad act by the defendant. Plaintiff asks 5 times of the punitive damages
19 which is \$10.5 Million dollars. The total amount claimed by plaintiff Yitong Wen/FITSKM against Sprout is
20 \$12.6 Million dollars.

21
22
23 Respectfully Submitted,

24 DATED: JUNE 28, 2024

25 
26 YITONG WEN/FITSKM LLC

Exhibit "A"

**APPRAISAL REPORT
OF**



810 43rd Avenue
San Francisco, CA 94121

PREPARED FOR

*
PB Financial Group Corp.
6380 Wilshire Blvd. Suite 161
Los Angeles, CA 90048

AS OF

04/08/2022

PREPARED BY

ACE Appraisers
PO Box 65
Burson, CA 95225

Uniform Residential Appraisal Report

There are 7 comparable properties currently offered for sale in the subject neighborhood ranging in price from \$ 1,298,000 to \$ 3,990,000	
There are 27 comparable sales in the subject neighborhood within the past twelve months ranging in sale price from \$ 1,388,000 to \$ 4,388,888	
FEATURE	SUBJECT
Address	810 43rd Avenue San Francisco, CA 94121
Proximity to Subject	1.82 miles E
Sale Price	\$ 3,088,000
Sale Price/Gross Liv. Area	\$ 0.00 sq. ft.
Data Source(s)	ML MLS#422632879;DOM 7
Verification Source(s)	DOC# Not Yet Posted
VALUE ADJUSTMENTS	DESCRIPTION
Sale or Financing	Armlth
Concessions	Conv:0
Date of Sale/Time	s03/22;c03/22
Location	N;Res;
Leasehold/Fee Simple	Fee Simple
Site	2375 sf
View	N;Res;
Design (Style)	DT4;Traditional
Quality of Construction	Q4
Actual Age	106
Condition	C4
Above Grade	Total Bdrms Baths
Room Count	10 6 4.0
Gross Living Area	4,401 sq. ft.
Basement & Finished	0sf
Rooms Below Grade	0sf
Functional Utility	Average
Heating/Cooling	Wall/None
Energy Efficient Items	Dual Pn Wdws
Garage/Carport	1gb1dw
Porch/Patio/Deck	Porch/Patio
Fireplaces	1 Fireplace
Other Item	None
Net Adjustment (Total)	\$ 73,500
Adjusted Sale Price of Comparables	\$ 3,161,500
I <input checked="" type="checkbox"/> did not research the sale or transfer history of the subject property and comparable sales. If not, explain	
My research <input checked="" type="checkbox"/> did not reveal any prior sales or transfers of the subject property for the three years prior to the effective date of this appraisal	
Data source(s) Tax Card	
My research <input checked="" type="checkbox"/> did not reveal any prior sales or transfers of the comparable sales for the year prior to the date of sale of the comparable sale	
Data source(s) Tax Card	
Report the results of the research and analysis of the prior sale or transfer history of the subject property and comparable sales (report additional prior sales on page 3).	
ITEM	SUBJECT
Date of Prior Sale/Transfer	04/27/2021
Price of Prior Sale/Transfer	\$1,580,000
Data Source(s)	Tax Records
Effective Date of Data Source(s)	03/24/2022
Analysis of prior sale or transfer history of the subject property and comparable sales Subject property last 3 year sales history: Subject had 2 prior transfers and a prior sale 04/27/2021 for \$1,580,000 from Michalski George to Goriup Maria M D (Grant Deed).	
Comps last 1 year sales history: No prior sale or transfer in last 12 months.	
Summary of Sales Comparison Approach Comps 1 to 4 are closed sales from subject's neighborhood. Comparables were selected for their age, room count, quality & design style. Adjustments made by market reaction/paired sales/bracketing, market data analysis and calculations were retained in appraiser work file. Conditional ratings obtained from MLS Listing photos, narrative & conversations with Listing agents when possible. Comps were adjusted for condition based on bracketing. See Reconciliation Chart for weight given to each comparable. Reconciliation Chart is provided to support comparable weights & calculations. It is not intended to be an exact match for final value conclusion.	
Indicated Value by Sales Comparison Approach \$ 3,398,500	
Indicated Value by: Sales Comparison Approach \$ 3,398,500 Cost Approach (if developed) \$ 3,351,000 Income Approach (if developed) \$	
The sales comparison approach is considered primarily, as it reflects the actions of buyers and sellers of competing properties. The cost approach was given little consideration due to the historical nature of it's data not being an accurate indicator of current cost nor builder's profits. The income approach was not developed due to it's unreliability.	
This appraisal is made <input checked="" type="checkbox"/> "as is," <input type="checkbox"/> subject to completion per plans and specifications on the basis of a hypothetical condition that the improvements have been completed, <input type="checkbox"/> subject to the following repairs or alterations on the basis of a hypothetical condition that the repairs or alterations have been completed, or <input type="checkbox"/> subject to the following required inspection based on the extraordinary assumption that the condition or deficiency does not require alteration or repair. This is an appraisal report that is intended for use in a refinance transaction only. This report is not intended for any other uses.	
Based on a complete visual inspection of the interior and exterior areas of the subject property, defined scope of work, statement of assumptions and limiting conditions, and appraiser's certification, my (our) opinion of the market value, as defined, of the real property that is the subject of this report is \$ 3,398,500 as of 04/08/2022, which is the date of inspection and the effective date of this appraisal.	

Uniform Residential Appraisal Report

SUBJECT	The purpose of this appraisal report is to provide the lender/client with an accurate, and adequately supported, opinion of the market value of the subject property.																																																																																																														
	Property Address 810 43rd Avenue				City San Francisco		State CA		Zip Code 94121																																																																																																						
	Borrower Fiskm LLC		Owner of Public Record Fiskm LLC		County San Francisco																																																																																																										
	Legal Description BLK 422																																																																																																														
	Assessor's Parcel # 1685-009A				Tax Year 2021		R.E. Taxes \$ 1,969																																																																																																								
	Neighborhood Name Outside Land BI 422				Map Reference 37.773288, -122.503460		Census Tract 0479.01																																																																																																								
	Occupant <input type="checkbox"/> Owner <input checked="" type="checkbox"/> Tenant <input type="checkbox"/> Vacant		Special Assessments \$ 0		<input type="checkbox"/> PUD HOA \$ 0		<input type="checkbox"/> per year <input type="checkbox"/> per month																																																																																																								
	Property Rights Appraised <input checked="" type="checkbox"/> Fee Simple <input type="checkbox"/> Leasehold <input type="checkbox"/> Other (describe)																																																																																																														
	Assignment Type <input type="checkbox"/> Purchase Transaction <input checked="" type="checkbox"/> Refinance Transaction <input type="checkbox"/> Other (describe)																																																																																																														
	Lender/Client PB Financial Group Corp. Address 6380 Wilshire Blvd. Suite 161, Los Angeles, CA 90048																																																																																																														
CONTRACT	Is the subject property currently offered for sale or has it been offered for sale in the twelve months prior to the effective date of this appraisal? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No																																																																																																														
	Report data source(s) used, offerings price(s), and date(s). DOM 58; Subject property was offered for sale.; Latest Price \$3,288,000; Latest Date 02/16/2022; Original Price \$3,288,000; Original Date 02/12/2022; ML MLS#81878089																																																																																																														
	I <input type="checkbox"/> did <input type="checkbox"/> did not analyze the contract for sale for the subject purchase transaction. Explain the results of the analysis of the contract for sale or why the analysis was not performed.																																																																																																														
	Contract Price \$ Date of Contract Is the property seller the owner of public record? <input type="checkbox"/> Yes <input type="checkbox"/> No Data Source(s)																																																																																																														
	Is there any financial assistance (loan charges, sale concessions, gift or down payment assistance, etc.) to be paid by any party on behalf of the borrower? <input type="checkbox"/> Yes <input type="checkbox"/> No																																																																																																														
	If Yes, report the total dollar amount and describe the items to be paid.																																																																																																														
NEIGHBORHOOD	Note: Race and the racial composition of the neighborhood are not appraisal factors.																																																																																																														
	<table border="1"> <thead> <tr> <th colspan="4">Neighborhood Characteristics</th> <th colspan="4">One-Unit Housing Trends</th> <th colspan="2">One-Unit Housing</th> <th colspan="2">Present Land Use %</th> </tr> </thead> <tbody> <tr> <td>Location</td> <td><input checked="" type="checkbox"/> Urban</td> <td><input type="checkbox"/> Suburban</td> <td><input type="checkbox"/> Rural</td> <td>Property Values</td> <td><input type="checkbox"/> Increasing</td> <td><input checked="" type="checkbox"/> Stable</td> <td><input type="checkbox"/> Declining</td> <td>PRICE</td> <td>AGE</td> <td>One-Unit</td> <td>65 %</td> </tr> <tr> <td>Built-Up</td> <td><input checked="" type="checkbox"/> Over 75%</td> <td><input type="checkbox"/> 25-75%</td> <td><input type="checkbox"/> Under 25%</td> <td>Demand/Supply</td> <td><input checked="" type="checkbox"/> Shortage</td> <td><input type="checkbox"/> In Balance</td> <td><input type="checkbox"/> Over Supply</td> <td>\$ (000)</td> <td>(yrs)</td> <td>2-4 Unit</td> <td>5 %</td> </tr> <tr> <td>Growth</td> <td><input type="checkbox"/> Rapid</td> <td><input type="checkbox"/> Stable</td> <td><input checked="" type="checkbox"/> Slow</td> <td>Marketing Time</td> <td><input checked="" type="checkbox"/> Under 3 mths</td> <td><input type="checkbox"/> 3-6 mths</td> <td><input type="checkbox"/> Over 6 mths</td> <td>725</td> <td>Low</td> <td>Multi-Family</td> <td>10 %</td> </tr> <tr> <td colspan="4">Neighborhood Boundaries NORTH - Ocean EAST - 30th Avenue SOUTH - Fulton Street</td> <td colspan="2">5,000</td> <td>High</td> <td>110</td> <td>Commercial</td> <td colspan="2">15 %</td> <td></td> </tr> <tr> <td colspan="4">WEST - Ocean</td> <td colspan="2">2,050</td> <td>Pred.</td> <td>85</td> <td>Other Park</td> <td colspan="2">5 %</td> <td></td> </tr> </tbody> </table>										Neighborhood Characteristics				One-Unit Housing Trends				One-Unit Housing		Present Land Use %		Location	<input checked="" type="checkbox"/> Urban	<input type="checkbox"/> Suburban	<input type="checkbox"/> Rural	Property Values	<input type="checkbox"/> Increasing	<input checked="" type="checkbox"/> Stable	<input type="checkbox"/> Declining	PRICE	AGE	One-Unit	65 %	Built-Up	<input checked="" type="checkbox"/> Over 75%	<input type="checkbox"/> 25-75%	<input type="checkbox"/> Under 25%	Demand/Supply	<input checked="" type="checkbox"/> Shortage	<input type="checkbox"/> In Balance	<input type="checkbox"/> Over Supply	\$ (000)	(yrs)	2-4 Unit	5 %	Growth	<input type="checkbox"/> Rapid	<input type="checkbox"/> Stable	<input checked="" type="checkbox"/> Slow	Marketing Time	<input checked="" type="checkbox"/> Under 3 mths	<input type="checkbox"/> 3-6 mths	<input type="checkbox"/> Over 6 mths	725	Low	Multi-Family	10 %	Neighborhood Boundaries NORTH - Ocean EAST - 30th Avenue SOUTH - Fulton Street				5,000		High	110	Commercial	15 %			WEST - Ocean				2,050		Pred.	85	Other Park	5 %																															
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	Neighborhood Description The subject's immediate area is an established neighborhood of average quality homes. The subject has access to all necessary supporting facilities including schools, shopping, recreation and employment.																																																																																																														
	Market Conditions (including support for the above conclusions) Market is currently overall stable and in shortage with minimal listings. Marketing times are typically 0-90 days. Well priced listings sell within 30 days. Minimal buy downs/concessions needed to successfully market properties. Financing is readily available with FHA, VA, CAL-VET, Conventional.																																																																																																														
Dimensions 25.00 x 95.00 Area 2375 sf Shape Rectangular View N;Res;																																																																																																															
Specific Zoning Classification R-1 Zoning Description Single Family Residential																																																																																																															
Zoning Compliance <input checked="" type="checkbox"/> Legal <input type="checkbox"/> Legal Nonconforming (Grandfathered Use) <input type="checkbox"/> No Zoning <input type="checkbox"/> Illegal (describe)																																																																																																															
SITE	Is the highest and best use of subject property as improved (or as proposed per plans and specifications) the present use? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If No, describe. See Comment Section on Page 3																																																																																																														
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	FEMA Special Flood Hazard Area <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No FEMA Flood Zone X FEMA Map # 0602980094A FEMA Map Date 03/23/2021																																																																																																														
	Are the utilities and/or off-site improvements typical for the market area? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If No, describe.																																																																																																														
	Are there any adverse site conditions or external factors (easements, encroachments, environmental conditions, land uses, etc.)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If Yes, describe.																																																																																																														
	At the time of inspection there were no apparent adverse easements, encroachments, or adverse conditions noted. No title report was provided to or reviewed by the appraiser.																																																																																																														
IMPROVEMENTS	<table border="1"> <thead> <tr> <th colspan="3">General Description</th> <th colspan="2">Foundation</th> <th colspan="2">Exterior Description materials/condition</th> <th colspan="2">Interior materials/condition</th> </tr> </thead> <tbody> <tr> <td>Units</td> <td><input checked="" type="checkbox"/> One <input type="checkbox"/> One with Accessory Unit</td> <td><input checked="" type="checkbox"/> Concrete Slab <input type="checkbox"/> Crawl Space</td> <td colspan="2">Foundation Walls Concrete/Avg</td> <td colspan="2">Floors Wood/Avg</td> <td colspan="2"></td> </tr> <tr> <td># of Stories</td> <td>4</td> <td><input type="checkbox"/> Full Basement <input type="checkbox"/> Partial Basement</td> <td colspan="2">Exterior Walls Stucco/Avg</td> <td colspan="2">Walls Drywall/Avg</td> <td colspan="2"></td> </tr> <tr> <td>Type</td> <td><input checked="" type="checkbox"/> Det. <input type="checkbox"/> Att. <input type="checkbox"/> S-Det/End Unit</td> <td>Basement Area 0 sq. ft.</td> <td colspan="2">Roof Surface Composite/Avg</td> <td colspan="2">Trim/Finish Wood-Paint/Avg</td> <td colspan="2"></td> </tr> <tr> <td><input checked="" type="checkbox"/> Existing <input type="checkbox"/> Proposed <input type="checkbox"/> Under Const.</td> <td>Basement Finish 0 %</td> <td colspan="2">Gutters & Downspouts Galv. 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	Attic	<input type="checkbox"/> None	Heating FWA HWB Radiant	Amenities		Woodstove(s) # 0		Driveway Surface Concrete																																																																																																							
<input type="checkbox"/> Drop Stair <input type="checkbox"/> Stairs	<input checked="" type="checkbox"/> Other VWall Fuel Gas	<input checked="" type="checkbox"/> Fireplace(s) # 1	<input checked="" type="checkbox"/> Fence Wood	<input checked="" type="checkbox"/> Garage # of Cars 1																																																																																																											
<input type="checkbox"/> Floor <input checked="" type="checkbox"/> Scuttle	Cooling <input type="checkbox"/> Central Air Conditioning	<input checked="" type="checkbox"/> Patio/Deck Cnct	<input checked="" type="checkbox"/> Porch Conc.	<input type="checkbox"/> Carport # of Cars 0																																																																																																											
<input type="checkbox"/> Finished <input type="checkbox"/> Heated	<input type="checkbox"/> Individual <input checked="" type="checkbox"/> Other None	<input type="checkbox"/> Pool None	<input type="checkbox"/> Other None	<input type="checkbox"/> Att. <input type="checkbox"/> Det. <input checked="" type="checkbox"/> Built-in																																																																																																											
Appliances Refrigerator <input checked="" type="checkbox"/> Range/Oven <input checked="" type="checkbox"/> Dishwasher <input checked="" type="checkbox"/> Disposal <input checked="" type="checkbox"/> Microwave <input checked="" type="checkbox"/> Washer/Dryer <input checked="" type="checkbox"/> Other (describe) Fan/Hood																																																																																																															
Finished area above grade contains: 10 Rooms 6 Bedrooms 4.0 Bath(s) 4.401 Square Feet of Gross Living Area Above Grade																																																																																																															
Additional features (special energy efficient items, etc.) None noted.																																																																																																															
Describe the condition of the property (including needed repairs, deterioration, renovations, remodeling, etc.). C4; No updates in the prior 15 years; See comments - SUBJECT CONDITION																																																																																																															
Are there any physical deficiencies or adverse conditions that affect the livability, soundness, or structural integrity of the property? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If Yes, describe																																																																																																															
No obvious signs of adverse environmental condition were noted by the appraiser.																																																																																																															
Does the property generally conform to the neighborhood (functional utility, style, condition, use, construction, etc.)? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If No, describe																																																																																																															

Borrower		Fitskm LLC	
Property Address 810 43rd Avenue			
City	San Francisco	County	San Francisco
		State	CA
		Zip Code	94121
Lender/Client	PB Financial Group Corp.	Address	6380 Wilshire Blvd. Suite 161, Los Angeles, CA 90048

